

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
Baltimore Division

AGORA, INC.  
14 W. Mount Vernon Place  
Baltimore, MD 21201

Plaintiff,

v.

COMPLAINT for  
PRELIMINARY INJUNCTIVE RELIEF

Digital First Media, LLC  
2711 Centerville Rd Suite 400  
Wilmington, DE 19808

Serve On:

Corporation Service Company  
2711 Centerville Rd Suite 400  
Wilmington, DE 19808

Defendant.

Plaintiff Agora, Inc. (“Agora”), by its undersigned counsel, brings this action seeking preliminary and permanent injunctions and damages for copyright infringement arising from defendant’s copying and use of content subject to registration in the United States Copyright Office known as Turbulence Training, Reg. No. TX 8-017-649.

**Parties**

1. Agora is a Maryland corporation with its principal office and place of business at 14 W. Mt. Vernon Place, Baltimore, MD 21201.
2. Defendant Digital First Media, LLC (“Digital”) is a Delaware limited liability company engaged in the business of owning and operating news services including the Denver Post.

**Jurisdiction and Venue**

3. This is an action for copyright infringement brought under the Copyright Act of 1976, 17 U.S.C. § 101 et seq.

4. Jurisdiction is based on 28 U.S. C. 1331 and 1338 because the matter in controversy involves a federal question, a question of copyright law.

5. Venue is proper as Defendant Digital regularly conducts business in this District.

**Facts**

6. Agora restates and incorporates by reference as if fully set forth the allegations of paragraphs 1 through 5, inclusive.

7. Agora is one of the largest consumer newsletter publishers in the world. It began its operations in 1979 and today publishes more than 300 books and 40 newsletters in the fields of health, finance and investing, and travel. Agora's publications reach more than one million subscribers and countless readers throughout the world.

8. Agora's publication entitled Turbulence Training is available at [www.turbulencetraining.com](http://www.turbulencetraining.com). The content contained on this site ("Content") was first published on September 4, 2013.

9. Agora is the sole owner and proprietor of all right, title, and interest in and to the Content. The Content was created by Agora as a work made for hire and contains sufficient original material and original selection, coordination and arrangement of factual information to be registered under the laws of the United States.

10. Agora complied in all respects with Title 17, U.S. C. § 102 et seq. and all other laws governing federal copyrights, and secured the exclusive rights and privileges in and to the

copyright in the Content and received from the Register of Copyrights Certificate of Registration No. TX 8-017-649 dated May 8, 2015. A copy of the Certificate is attached hereto as Exhibit A.

11. Upon information and belief, Defendant Media is a holding company for publications including the Denver Post. The Denver Post hosts an Internet blog on the subject of fitness located at <http://blogs.denverpost.com/fitness>.

12. On or about September 23, 2013, a guest blogger, Dana Fullington, posted an article entitled "Does cardio make you fat? Study says yes" ("Article") on the Denver Post fitness blog. The content of the article is substantially identical to Agora's copyright protected Content. A copy of the article is attached hereto as Exhibit B.

13. On April 1, 2015, shortly after the Agora learned of the Article, a notification under the Digital Millennium Copyright Act ("DMCA") was sent to Digital's DMCA agent at [copyright@medianewsgroup.com](mailto:copyright@medianewsgroup.com). A copy of the notice is attached hereto as Exhibit C.

14. When no response was received, the DMCA notice was resent to [copyright@medianewsgroup.com](mailto:copyright@medianewsgroup.com) on April 8, 2015. A copy of that email is attached hereto as Exhibit D.

15. On April 9, 2015, the DMCA notice was emailed to Defendant at [copyright@digitalfirstmedia.com](mailto:copyright@digitalfirstmedia.com). A copy of the notice is attached hereto as Exhibit E.

16. On April 16, 2015, the DMCA notice was resent to Defendant at [copyright@digitalfirstmedia.com](mailto:copyright@digitalfirstmedia.com). A copy of the notice is attached hereto as Exhibit F.

17. On April 17, 2015, a letter was mailed via Federal Express overnight mail to DigitalFirst Media a/k/a Media News Group, DMCA Agent, 101 W. Colfax Ave. Suite 950, Denver, CO 80202, the DMCA agent of record for Defendant. Copies of the letter and attachment are attached hereto as Exhibit G.

18. Digital has failed and refused to respond to the numerous notifications concerning the infringing Article, which continues to be posted on Digital's web site at <http://blogs.denverpost.com/fitness/2013/11/23/is-your-cardio-routine-making-you-fat/13461>.

**COUNT I (Copyright Infringement)**

19. Agora restates and incorporates by reference as if fully set forth the allegations of paragraphs 1 through 18, inclusive.

20. Digital willfully infringed Agora's copyright by using, copying and displaying the content registered on Certificate No. TX 8-017-649.

21. Digital willfully infringed Agora's copyright by failing to respond to repeated notices of infringement.

22. Digital has benefitted from its infringing activities and Agora has suffered damage to its good will and reputation as well as monetary damages as a result of Digital's infringing activities, the extent of which are not able to be determined at this time.

23. Digital's actions constitute breach of the Copyright Act of 1976, 17 U.S.C. § 101 et seq., for innocent and willful violation of Agora's registered copyright resulting in harm to Agora.

WHEREFORE, Plaintiff prays that the Court enter judgment as follows:

A. A preliminary injunction that Defendant, its agents, servants, employees, assigns, attorneys, representatives, and successors, and all persons in active concert or participation with it, be preliminarily enjoined from infringing Plaintiff's copyright in any manner;

B. A permanent injunction that Defendant, its agents, servants, employees, assigns, attorneys, representatives, and successors, and all persons in active concert or participation with it, be permanently enjoined from infringing Plaintiff's copyright in any manner;

- C. Defendant be required to pay to Plaintiff such damages as Plaintiff has sustained as a consequences of each and every act of Defendant's infringement of Plaintiff's copyright;
- D. Defendant be required to pay to Plaintiff the costs of this action and that reasonable attorney's fees be allowed pursuant to 17 U.S.C. § 505; and
- E. For such other and further relief as the court deems just and proper.

Respectfully submitted,



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